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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~274.~~ 80

PARKER R. MASON, APPELLANT,

vs.

S. S. MANN, DEPUTY COLLECTOR OF INTERNAL REVENUE, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED OCTOBER 31, 1870.

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INDEX.

	Original.	Print.
Bill of complaint	2	1
Application for injunction	28	14
Temporary injunction granted	28	15
Overruled and bill dismissed	29	15
Judgment	29	15
Appeal bond	30	15
Clerk's certificate	33	16
Assignment of error	34	16

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Clerk's certificate	33	16
Assignment of error	34	16

1 Pleas in the circuit court of the United States for the northern district of Illinois, sitting in chancery, at the city of Chicago, in the district aforesaid, before the Hon. Henry W. Blodgett, district judge of said northern district, and in the absence pro tempore of the Hon. David Davis, associate justice of the Supreme Court of the United States, and of the Hon. Thomas Drummond, circuit judge for the seventh judicial circuit, sole judge, on Tuesday, the twenty-sixth day of July, in the year of our Lord one thousand eight hundred and seventy, and of the independence of the United States the ninety-fifth year.

WILLIAM H. BRADLEY, *Clerk.*

PARKER R. MASON
vs.
S. S. MANN, DEPUTY COLLECTOR; W'M B. Allen, collector; Duncan Ferguson, assessor; and Columbus Delano, Commissioner of Internal Revenue. } In chancery.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that, on the twenty-fourth day of August, in the year of our Lord one thousand eight hundred and sixty-nine, came Parker R. Mason, complainant, by Edward Roby, esq., his solici-
2 tor, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois, at Chicago, in said district, his bill of complaint against S. S. Mann, deputy collector; William B. Allen, collector; Duncan Ferguson, assessor; and Columbus Delano, Commissioner of the Internal Revenue, defendants, which said bill is in the words and figures following, to wit:

Bill of complaint.

U. S. circuit court, northern district of Illinois.

PARKER R. MASON
vs.
S. S. MANN, DEPUTY COLLECTOR; WILLIAM B. Allen, collector; Duncan Ferguson, assessor; and Columbus Delano, Commissioner of the Internal Revenue.

To the judges of the circuit court of the United States for the northern district of Illinois:

Parker R. Mason, of the city of Chicago, in the county of Cook, and State of Illinois, and a citizen of said State of Illinois, brings this his bill against S. S. Mann, deputy collector, and William B. Allen,
3 collector, of the county of Kane, and Duncan Ferguson, assessor, of Rockford, in the county of Winnebago, in the State of Illinois, citizens of the State of Illinois, and Columbus Delano, Commissioner of Internal Revenue.

And thereupon your orator complains and says that the defendant S. S. Mann, deputy collector of the United States internal revenue, is a ministerial officer, bound to proceed upon the direction or warrant of his principal, said collector, in all matters apparently within the scope of his authority.

The defendant William B. Allen, collector, is a ministerial officer,

bound, as your orator is advised, to collect and seize for the United States all sums which are certified to him as due, or which he is advised are due, to the United States under the internal revenue laws by the United States assessors, and by the Commissioner of the Internal Revenue.

The defendant Duncan Ferguson, assessor, is an officer of the United States, whose functions are mainly ministerial. In cases where, of his own knowledge, or upon authentic information, he shall discover that any sums due for taxes to the United States, or that any taxable matters are not reported to him, he, said assessor, is required to examine and ascertain the evidences thereof, and thereupon to adjudge, decide, and assess such taxable matters and taxes. In cases where reports have been made, and said assessor ascertains a deficiency therein, such amounts are assessed as deficiency; in other matters said assessor's office is mainly ministerial.

4 Said assessor is required, with a skillful person, appointed by Government, to survey each distillery in his district, and measure the capacity of the fermenting-tubs in inches, and reduce the same to gallons; then to divide such number of gallons by the number of days the distiller will ferment his mash, to show how much fermenting capacity will be used each day; this amount he is to divide by a fixed number, 45, and the quotient is called the number of bushels which will be daily fermented in such distillery, which quotient he multiplies by a fixed number, $3\frac{1}{2}$, (14 quarts,) and the product is called the producing capacity of such distillery, and a report of said calculation, and its result, is by said assessor forwarded to the Commissioner of Internal Revenue.

At times fixed or recommended by the Commissioner of the Internal Revenue, such assessor having ascertained from the distiller the number of days, multiplies the said amount, called "producing capacity," by the number of days the distiller has fermented, and ascertains $\frac{4}{5}$ or 80 per cent. of the product, and designates the amount as 80 per cent. of the producing capacity during such period of time. And thereupon such assessor doth subtract the number of gallons of proof-spirits produced in such distillery from the last ascertained sum, and obtains a remainder, which is designated as deficiency.

And thereupon said assessor doth further compute the sum of 50 cents upon each unit of said so-called deficiency, and $4 00 on
5 each 40 of said units, and doth report the result of said computations, under the names of assessment and tax, to the Commissioner of the Internal Revenue, and to the collector of the district, in all which matters of survey and computation said assessor has no discretion.

The defendant Columbus Delano, Commissioner of the Internal Revenue, is an officer having general supervision, command, and control over all said other officers, for the purpose of promoting the efficiency of the Revenue Department, and they are bound to obey his orders and directions in all matters arising under the revenue laws, as your orator is advised.

Your orator is a distiller, and during the last six months of the year 1868 was the possessor of the distillery at Clintonville, Kane County, Illinois, in the second collection district of Illinois, known as Distillery No. 1, of Parker R. Mason, in said district.

Said distillery was duly registered, and all the provisions of the statute having been fully complied with in relation thereto, and all taxes and excises paid thereon, a license was duly issued to your orator by the United States, and thereafter on the 2nd day of November, A. D. 1868, your orator commenced to run said distillery.

Prior to starting said distillery your orator gave notice to the said assessor, upon a printed blank furnished by said assessor, that he wished the capacity of said distillery, according to the aforesaid rule of computation, reduced to 500 bushels per day. And said assessor
6 securely headed over a part of the fermenting-tubs thereof, and reduced such capacity to 516½ bushels per day, but gave your orator no notice of any kind, that he had not complied with such notice until about December 1st, when said assessor furnished your orator with a copy of the survey, and your orator did not know till some time after December 1st that the capacity was greater than 500 bushels, because the bushels did not appear in said report. (A copy of said report is hereto annexed as part of this bill, marked "Schedule D.")

Your orator had but few cattle when said distillery started, and therefore fermented but 400 bushels of grain per day, viz: 80 per cent. of the supposed capacity, that no more food might be wasted than necessary, and being delayed in purchases, did not get in cattle enough to eat more than 400 bushels per day till after December 1st, and your orator used and reported 400 bushels of grain daily, and no more, except on the 5th of November, when only 200 bushels were used, owing to a break in the machinery, whereby it appears that your orator actually used 200 bushels, less than 80 per cent of the fermenting capacity as understood by your orator, and more than 500 bushels less than 80 per cent of such capacity in fact.

Your orator had prepared to start in October, but was delayed by the delay in assigning and sending on the "storekeeper." Meanwhile the grain which had been purchased, being new and damp, began to grow and sour, and rot, and became almost unfit for any use whatever, and entirely unsaleable, and was only preserved from becoming a putrid
7 mass by shovelling over and elevating from bin to bin as much as possible, which was difficult, as the bins were wide and deep, and nearly all full. The amount of grain which became thus damaged and unsaleable was more than 8,000 bushels, and formed more than four-fifths of the grain used in said distillery in November. And your orator was obliged to use it for what it would yield, or throw it away.

On the 10th and 21st days of November, and 1st day of December, your orator reported to said assessor, the exact number of bushels of grain used in said distillery during said November, to wit, 9,800 bushels in all, and the exact number of gallons of proof-spirits, which had been produced in said distillery, and *guaged* by the *guager* during said month of November, viz: $23{,}576\frac{95}{100}$ gallons, and no more. At that time there was no regulation or rule requiring the *guager* to draw off all the spirits in the cisterns at the date of his report, and there were in the cisterns under the locks and charge of the *guager* more than 4,500 gallons of proof spirits, produced in said November, but which were not drawn off or *guaged* until the following day, too late to be included in said November report.

Thereupon said assessor, not claiming that your orator had failed to report any spirits whatever manufactured or produced in said distillery, and not in any manner passing in judgment or decision upon such subject, except to decide that your orator had reported all spirits so pro-
8 duced, and having given your orator no notice of any revision or alteration of his report, did proceed, according to the fixed and arbitrary rule above set forth, to ascertain the amount called the producing capacity of said distillery during said November, and ascertaining 80 per cent of such amount, did set it down as—

The amount of spirits required to be produced during the above period of time	30,998.80	galls.
And said assessor further set down the amount of proof-spirits reported as above for same period	23,576.95	galls.
And subtracting, did call the difference "deficiency".	8,226.27	galls.

And thereupon said assessor made an assessment against your orator for the tax on such "deficiency" to wit:

On 8,227 gallons of proof-spirits, at 50 cents per gallon	$4,113 50
And $4 per barrel special tax on 795 barrels of 40 gallons each	2,913 33
Total	$7,026 83

And did report the result of such computution and assessment to said collector.

Said assessor in all things stated, did and performed the same, as his ministerial duty prescribed by the law, and in reference to which he had no discretion or decision whatsoever.

A copy of said assessment and computation are hereto annexed as part of this bill, and marked Schedule "A."

Said collector by his said deputy forthwith notified your orator to pay said assessment.

And thereafter said assessor having recieved the reports of your orator for December, made a corrected assessment for the month
9 of November, a copy of which is hereto annexed as part of this bill, marked Schedule "B;" and also made an assessment for the month of December, a copy of which is hereto annexed as part of this bill, and marked Schedule "C," wherein it appears that 4,500 gallons should be deducted from said 8,227 gallons ascertained by said former computation, (Schedule "A,") and that the amount of said deficiency in the production of said amount, called the amount required to be produced in said November, was only 3,727 gallons.

Nevertheless the said former assessment was not abated in any manner, and each and all of said officers, viz, deputy collector, collector, and assessor, denied that either or all of them had any power or authority to remit or abate the same. And said collector and deputy did assert and feel that, said amount having been reported to them in due form, it was their duty to proceed and collect the same. Yet said collector delayed the enforcement thereof till application could be made to the Commissioner of Internal Revenue to abate and command him not to collect the same.

Said application was made; and your orator is informed and verily believes that said Commissioner hath declined to interfere in the matter, and doth declare that in all cases distillers must pay the amounts ascertained by such computations as aforesaid, whether the amount of spirits required has been produced or not, and hath, by dive's
10 ways and means, which are kept secret from your orator, so moved upon his subordinate said collector, that said collector hath issued his warrant to his said deputy for the collection of $4,113 50 parcel of the above assessment, together with a penalty of 5 per cent., and interest at 1 per cent. a month for 6 months, amounting in all to $4,565 98, of which warrant the following is a true copy:

"*Warrant.*

"UNITED STATES OF AMERICA,
"*Second Collection District, State of Illinois.*

"To S. S. Mann, deputy collector:

"Whereas, in pursuance of the provisions of the acts of Congress of the United States to provide internal revenue, to support the Government, to pay interest on the public debt, and for other purposes, the several persons and firms named in the list or schedule signed by me, and hereto annexed, have become chargeable with, and are indebted to the United States for the taxes assessed against them, respectively, in the amount set forth opposite the name of each in the aforesaid list or schedule, together with the penalty, as therewith stated, amounting in the aggregate to 4,565$\frac{98}{100}$ dollars, for neglect to pay the said tax when the same became due:

"And, whereas, more than ten days have elapsed since payment of said taxes was demanded of each of said persons or firms, and as they still neglect and refuse to pay the same:

11 "You are hereby commanded to distrain upon so much of the goods, chattels, and effects of each of them, respectively, if any such can be found, as may be necessary for the payment of the taxes and penalties due and owing by them, respectively, as set forth in the aforesaid schedule, and also for the payment of all necessary and reasonable fees and expenses of each said distraint, with the commission chargeable by law. And you will safely keep all property so distrained, and do all things needful and necessary to be done in the premises, as required by law, before the sale thereof. But in case sufficient goods, chattels, and effects cannot be found, then you are hereby commanded to seize so much of the real estate of each of said persons or firms as may be necessary for the purposes aforesaid; and for so doing this shall be your warrant, of which make due service and return to me at this office.

"Witness my hand and official seal, at Aurora, this 12th day of August, anno Domini 1869.

[SEAL.] (Signed) "WILLIAM B. ALLEN,
"*Collector of Internal Revenue, Second District of Illinois.*

12 "SCHEDULE.

"Name.	Location.	Discription of tax.	Amount of tax.	Penalty.	Total.	Remarks.
"Parker R. Mason..	Clintonville..	8,227 gallons distilled spirits	$4,113 50			
		Penalty 5%	205 67			
		Interest 1% per month for 6 months	246 81		4,565 98	

(Signed) "WILLIAM B. ALLEN,
"*Collector 2d Dist. Ills.*"

13 Said deputy collector hath notified your orator forthwith to pay said sum in said warrant mentioned, and doth threaten and give out, that if your orator do not forthwith pay the same, he will seize your orator's property into the hands of the United States in satisfaction thereof.

Your orator avers that he is not indebted to the United States for

any sum whatever upon said warrant or assessment. That by section 1 of the act imposing taxes on distilled spirits, &c., approved July 20, 1868, a tax of 50 cents per gallon on proof-spirits, to be paid by the distiller before removal from the distillery, is laid; by section 4, said tax is declared to attach to this substance as soon as it is in existence as such. And by section 59, a special tax of $4 per barrel is laid on all distilled spirits produced. All which taxes accruing and due to the United States upon the said production of the said distillery, your orator hath faithfully paid and discharged, and is ever ready and willing to pay all taxes legally assessed, charged or due from him. But the said 8,227 gallons of proof-spirits upon which said sum was assessed, for the collection of which said warrant was issued against your orator, was never removed from the distillery, and your orator is not liable to be taxed thereon under section 1; the same never existed, and no tax attached thereto under section 4. Your orator never produced
14 the same, or any part thereof, therefore your orator was not required to pay a tax of $4 per barrel thereon by section 59. No other taxes are laid on distilled spirits, and your orator claims and avers that said assessment is not a tax.

Each and every such revenue officer except the Commissioner of the Internal Revenue, are ministerial officers, required by the statute to obey the printed, written, or verbal rules, regulations, and directions, of the Commissioner, and such rules, regulations, and directions, together with the statute, are held and claimed to be their sufficient warrant for all their said acts, and that they are not personally responsible for any wrong done thereunder.

And such rules, regulations, and directions having been mainly issued by a different officer, and the damages arising from the execution thereof being altogether consequential, the said assessment will be taken from your orator and delivered to the United States, (over which no court has jurisdiction,) and your orator will have no remedy against any person therefor. as he is advised.

And your orator is informed and verily believes that if any of said defendants, or any other person, are liable to your orator in any manner for taking the amount of said assessment, such defendant or person so liable is also liable for other trespasses, under color of like authority, to so great an amount as to be utterly insolvent.

15 And your orator is informed and verily believes that none of the defendants herein are men of property, and that they obtain their livings from the salaries and perquisites of their respective offices, and if chargeable with so large sums as assessed, as aforesaid, against your orator, they each would be insolvent.

Your orator is further informed and verily believes that the said defendants have combined together with large numbers of other revenue officers, called assistants and special agents, and detectives and supervisors, and divers other appellations to protect each other from actions for such trespasses, in all which things they are aided and abetted by the United States, (which is above the jurisdiction of this court,) and such confederates do boast that the United States will and doth maintain them in all suits growing out of the acts done by them under color of this law, and will take away your orator's property as aforesaid, and so oppress him by such maintenance in any suit he may bring therefor that he will be compelled to abandon the same. Said defendants, with their confederates, do also hold their proceedings secret, and your orator is utterly unable to ascertain and obtain evidence which could show

the acts of said assessor, or any other person who might be liable herein, to be any other than ministerial acts, and protected by their office.

Your orator is further informed and believes that said defendants, except the Commissioner, are under the command and direction
16 of certain revenue officers, called supervisors, who are a sort of inquisitors, and do, under the authority of their office, claim and exercise the power of citing any and all persons before them in secret places to testify concerning any and all matters, and do there, having administered an oath to the individual, compel him to testify and produce evidences, and do exercise undue and terrifying influences; all which means would be used and brought to bear to learn the evidences and defeat your orator's suit.

Wherefore your orator insists—

1st. Said assessment is not a tax, but an arbitrary exaction, on the basis that, if your orator has not produced 80 per cent. of the producing capacity, he shall pay the taxes on what he has produced; and a farther sum equal to what the taxes would have been, if 80 per cent. had been produced, shall be exacted to make up the deficiency.

2nd. Your orator is not indebted to the United States therefor.

3rd. If not restrained by the injunction of this court, the defendants, the Commissioner, collector, and deputy collector, will seize and take and deliver your orator's property, to the amount of such assessment, to the United States, and will harrass your orator in manner aforesaid.

4th. Such seizure or taking would inflict great and irreparable injury upon your orator—no action accruing to your orator against said deputy collector, or collector, who are protected by their warrants,
17 nor against said assessor for making said computations and setting the same down, as a clerk, as deficiency in the same kind of lists and manner as deficiencies actually ascertained by his judgment, he not being liable for the collateral effect of such clerical duty, nor against said Commissioner who cannot be proved to have done anything.

Such injury would be irreparable if any action could accrue against any such officer, because any officer so liable (could not answer for one in a thousand of his trespasses &) would be insolvent, and because of the maintenance of the United States of such officer, and the oppression of its officers, whereby your orator would be harrassed and wearied out in his suit.

Such injury would be irreparable because interest on money is worth 10 to 20 per cent., and a judgment would give but six, and because the money is your orator's capital, and needed in business, and the damage from its loss which would arise collaterlly would be great, and because it is your orator's property, and its seizure by violence and force, without color of right, violates the absolute right of your orator to possess it.

To the end, therefore, that the said S. S. Mann, deputy collector, William B. Allen, collector, Duncan Ferguson, assessor, and Columbus Delano, Commissioner of Internal Revenue, may, if they can, show
18 why your orator should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, according to the best and utmost of their respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to all and singular the matters aforesaid, and that as fully and particularly as if the same were here again repeated, and they and every of them distinctly interrogated thereto:

And that the said S. S. Mann, deputy collector; William B. Allen, collector; and Columbus Delano, Commissioner of the Internal Revenue, their counsellors, solicitors, officers, agents, and successors in office, and

all persons under the direction or control of them, or either of them, may be restrained by injunction, issuing out of this court, from proceeding farther against your orator, or doing anything for the collection of the said assessment, or any part or parcel thereof, or any penalty, percentage, or interest thereon:

And that the said assessment, and charge, and warrant may be declared null and void, and of no effect, and that your orator may have such farther, or other, or different relief in the premises as to your honors may seem just:

May it please your honors not only to grant unto your orator a writ of injunction issuing out of and under the seal of this honorable court, to be directed to the said S. S. Mann, deputy collector, William B. Allen, collector, and Columbus Delano, Commissioner of the Internal
19 Revenue, commanding them and each of them absolutely to desist and refrain from proceeding or doing anything for the collection of the said assessment, or any part or parcel thereof, or any penalty, interest, cost, charges, or commissions thereon, but also a writ of subpœna, to be directed to the said S. S. Mann, deputy collector, William B. Allen, collector, Duncan Ferguson, assessor, and Columbus Delano, Commissioner of the Internal Revenue, their counsellors, solicitors, officers, agents, and successors in office, and all persons under the direction or control of them or either of them, commanding them and each of them at a certain time, and under a certain penalty therein to be limited, personally to appear before this honorable court, and then and there full, true, direct, and perfect answer make to all and singular the premises, and further to stand, to perform, and abide such further order, direction, and decree therein as to your honors shall seem meet.

PARKER R. MASON.

EDWARD ROBY, *Plff's Sol'c'r.*

STATE OF ILLINOIS, *County of Cook, City of Chicago, ss:*

Parker R. Mason, being duly sworn, says that he is the complainant in the foregoing bill subscribed by him; that he has heard the same read, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

PARKER R. MASON.

Subscribed and sworn to before me this twenty-fourth day of August, A. D. 1869.

JOHN MAGOUN,
Notary Public.

20 SCHEDULE "A."

(89.)—*United States Internal Revenue.—Form of assessment of spirits, based on capacity of distillery.*

[If the reported product is less than the amount to be accounted for, as determined by the assessor, or less than 80 per cent. of the capacity, as determined by the survey, an assessment should be made. When the difference between the amount to be accounted for, (on the former blanks termed "required product,") and the reported product is greater than the difference between the 80 per cent. and the reported product, the assessment will be upon the former quantity. When the reported prod-

uct equals or exceeds the 80 per cent. the assessment will be made upon the difference between the reported product and the amount to be accounted for. If the reported product and the amount to be accounted for are each less than 80 per cent., the assessment must be made upon the difference between the reported product and the 80 per cent. Particular attention is called to supplement 2, series 4, No. 7. The assessment of the $4 per barrel tax and the per diem tax, under section 13, must be made on this form.]

Computation and determination of the quantity of mash or beer fermented, and distilled spirits produced, in distillery No. 1, of Parker R. Mason, ascertained from reports dated Nov. 11, 1868, Nov. 21, 1868, and Dec. 1, 1868, calculated in compliance with the provisions of section 20, act of July 20, 1868.

Reports.	Materials used for mash or beer.				Mash or beer.	Distilled spirits.
Tri-monthly period.	Description.	Quantities.			Reported product.	Reported product.
		Bushels.	Pounds.	Gallons.	Gallons.	Gallons.
	Amount brought forward from preceding month					
1st to 11th		3,000	168,000			2,839.85
11th to 21st		3,600	201,600			11,764.82
21st to 1st		3,200	179,200			8,972.28
	Total	9,800	548,800		354,140	23,576.95
	Amount on hand last of Nov.				42,443	
	Total used	9,800	548,800		311,697	

Amount of proof-spirits required to be produced for during above period of time ..... 30,998.80 galls.
Amount of proof spirits reported as above, for same period ..... 23,576.95 "

Deficiency ..... 7,421.85 galls.

Eighty per cent. on producing capacity is ..... 31,803.20 galls.
Amount of spirits above reported as produced ..... 23,576.95 "

Deficiency ..... 8,226.25 galls.

Assessment is hereby made against ——— ———, for tax on 8,227 gallons proof-spirits, at 50 cts. per gallon 4,113 50
And $4 per barrel, special tax, on 795 barrels, of 40 proof-gallons each 2,913 33

Total 7,026 83

Per diem tax on distillery, as per survey, of $50 per day, for 22 days 1,100
Per diem tax on distillery during suspension of work, of $2 per day, for —— days ....

Dated at Rockford, Dec. 1, 1868.

DUNCAN FERGUSON,
Assessor 2d District, Illinois.

(Indorsed:) (89.) Assessment of spirits against ——— ———, by ——— ———, assessor, —— dist. of ———, for the month of ———, 18—.

21 SCHEDULE "B."

(89.)—*United States Internal Revenue.—Form of assessment of spirits, based on capacity of distillery.*

[If the reported product is less than the amount to be accounted for, as determined by the assessor, or less than 80 per cent. of the capacity, as determined by the survey, an assessment should be made. When the difference between the amount to be accounted for, (on the former blanks termed "required product,") and the reported product is greater than the difference between the 80 per cent. and the reported product, the assessment will be upon the former quantity. When the reported product equals or exceeds the 80 per cent., the assessment will be made upon the difference between the reported product and the amount to be accounted for. If the reported product and the amount to be accounted for are each less than the 80 per cent., the assessment must be made upon the difference between the reported product and the 80 per cent. Particular attention is called to supplement 2, series 4, No. 7. The assessment of the $4 per barrel tax and the per diem tax, under section 13, must be made on this form.]

Computation and determination of the quantity of mash or beer fermented, and distilled spirits produced, in distillery No. one, of Parker R. Mason, ascertained from reports dated 1st to 11th November, 1868, 11th to 21st November, 1868, and 21st to 30th November, 1868, calculated in compliance with the provisions of section 20, act of July 20, 1868.

Reports.	Materials used for mash or beer.				Mash or beer.	Distilled spirits.
Tri-monthly period.	Description.	Quantities.			Reported product.	Reported product.
		Bushels.	Pounds.	Gallons.	Gallons.	Gallons.
	Amount brought forward from preceding month	.....	.....	.....	.....	.....
1st to 11th....	107 8-56 bu. malt, 492 48-56 bu. rye, & 2,400 bu. corn	3,000	168,000	.....	.....	2,839.85
11th to 21st...	122 32-56 bu. malt, 591 24-56 bu. rye, & 2,880 bu. corn	3,600	201,600	.....	.....	11,764.82
21st to 1st....	114 16-56 bu. malt, 525 48-100 bu. rye, & 2,560 bu. corn	3,200	179,200	.....	.....	8,972.28
	Total	9,800	548,800	.....	354 140	.....
	Amount on hand	2,229	124,824	.....	100,300	.....
	Total used	7,591	423,976	.....	353,840	23,576.95

Amount of proof spirits to be accounted for during above period of time..... 26,498.50 galls.
Amount of proof spirits reported as above for same period..... 23,576.95 "

Deficiency ..... 2,921.55 galls.

Eighty per cent on producing capacity is 31,803.20 gallons, less 4,500 gallons, in cisterns at end of Nov'r..	27,303.20	galls.
Amount of spirits above reported as produced.....	23,576.95	"
Deficiency.....	3,726.25	galls.

Assessment is hereby made against Parker R. Mason for tax on 3,727 gallons proof-spirits, at 50 cts. per gallon.....	$1,863	50
And $4 per barrel, special tax, on 795 barrels, of 40 proof-gallons each 3,180.00, less $266 67, special tax.....	2,913	33
Total.....	4,776	83
Per diem tax on distillery, as per survey, of $50 per day, for 22 days.....	1,100	00
Per diem tax on distillery during suspension of work, of $2 per day, for —— days.....	.....	

Dated at Rockford, Illinois, Dec. 1, 1868.

DUNCAN FERGUSON,
Assessor Second District, Illinois.

REMARK.—Of the 100,300 gallons of mash, reported above as now on hand, 57,857 gallons represent the quantity of spirits in cisterns at the end of Nov'r, and the balance, 42,443 gallons is mash proper.

(Indorsed:) Corrected report. (89.) Assessment of spirits against Parker R. Mason by Duncan Ferguson, assessor 2d dist. of Illinois, for the month of November, 1868.

22 SCHEDULE "C."

(89.)—*United States internal revenue.—Form of assessment of spirits, based on capacity of distillery.*

[If the reported product is less than the amount to be accounted for, as determined by the assessor, or less than 80 per cent. of the capacity, as determined by the survey, an assessment should be made. When the difference between the amount to be accounted for (on the former blanks termed "required product,") and the reported product is greater than the difference between the 80 per cent. and the reported product, the assessment will be upon the former quantity. When the reported product equals or exceeds the 80 per cent., the assessment will be made upon the difference between the reported product and the amount to be accounted for. If the reported product and the amount to be accounted for are each less than the 80 per cent., the assessment must be made upon the difference between the reported product and the 80 per cent. Particular attention is called to supplement 2, series 4, No. 7. The assessment of the $4 per barrel tax and the per diem tax, under section 13, must be made on this form.]

Computation and determination of the quantity of mash or beer fermented, and distilled spirits produced, in distillery No. one, of Parker R. Mason, ascertained from reports dated 1st to 11th December, 1868, 11th to 21st December, 1868, and 21st to 31st December, 1868, calculated in compliance with the provisions of section 20, act of July 20, 1868.

Reports.	Materials used for mash or beer.				Mash or beer.	Distilled spirits.
Tri-monthly period.	Description.	Quantities.			Reported product.	Reported product.
		Bushels.	Pounds.	Gallons.	Gallons.	Gallons.
	Amount brought forward from preceding month	2,229	124,824	.....	100,300	.....
1st to 11th....	128 32-56 bus. malt, 591 24-56 bus. rye, & 2,880 bu. corn.	3,600	201,600	.....	.....	16,189.17
11th to 21st...	114 16-56 bus. malt, 525 40-56 bus. rye, & 2,560 bu. corn.	3,200	179,200	.....	.....	8,086.89
21st to 1st....	142 48-100 bus. malt, 657 8-56 bus. rye, & 3,200 bu. corn.	4,000	224,000	.....	.....	19,438.50
		.....	.....	.....	389,427	.....
	Total	13,029	729,624	.....	489,727	.....
	Amount on hand	1,032 19-56	57,811	.....	46,455	.....
	Total used	11,996 37-56	671,813	.....	443,272	43,714.56

Amount of proof-spirits to be accounted for during above period of time ..... 43,714.56 galls.
Amount of proof-spirits reported as above, for same period ..... 43,714.56 "

Deficiency ..... galls.

Eighty per cent. on producing capacity is 37,947.60 gallons; add 4,500 gallons in cisterns at end of Nov'r. 42,447.60 galls.
Amount of spirits above reported as produced ..... 43,714.56 "

Deficiency ..... galls.

Assessment is hereby made against ——— ——— for tax on ——— gallons proof spirits, at 50 cts. per gallon ....
And $4 per barrel, special tax, on 1,092 barrels, of 40 proof-gallons each 4,368 00

Total 4,368 00

Per diem tax on distillery, as per survey, of $48 52 per day, for 27 days 1,310 04
Per diem tax on distillery during suspension of work, of $2 per day, for ——— days ....

Dated at Rockford, Illinois, 1st January, 1869.

DUNCAN FERGUSON,
Assessor Second District, Illinois.

(Indorsed:) Corrected report. (89.) Assessment of spirits against Parker R. Mason by Duncan Ferguson, assessor 2d dist. of Illinois, for the month of December, 1868.

23 SCHEDULE "D."

ELGIN, *November* 8, 1868.

Hon. E. A. ROLLINS,
Commissioner of Internal Revenue, Washington D. C.

SIR: We have the honor to report the producing capacity of the distillery situated in the village of Clintonville, in the county of Kane, and State of Illinois, belonging to Clara Mason, and run by her husband, Parker R. Mason, made by Duncan Ferguson, United States assessor of internal revenue, of the second collection district of Illinois, and W. L. Pease, of the city of Elgin, in said district, in pursuance of section 10 of the act of July 20th, 1868

The dimensions of the tubs in said distillery are given in the following tables, viz:

24

Nos. of tubs.	Diameter at top.		Diameter at top.		Diameter at bottom.		Diameter at bottom.		Depth.		Capacity in gallons.
	Feet.	*Inches.*	*Feet.*	*Inches.*	*Feet.*	*Inches.*	*Feet.*	*Inches.*	*Feet.*	*Inches.*	
Tub No. 1	12	2	9	3	12	8	9	8	6	10	4,801
" " 2	12	3	9	0	9	9	12	9	6	7	4,626
" " 3	12	2	9	3	12	8	9	10	5	10	4,130
" " 4	12	3	9	4	12	8	9	9	6	3	4,443
" " 5	12	3	9	4	12	8	9	10	6	8	4,757
" " 6	12	0	9	6	12	7	9	9	6	10	4,820
" " 7	12	2	9	2	12	8	9	9	7	0	4,919
" " 8	11	8	9	4	12	8	10	5	6	5	4,578
" " 9	9	7	11	8	12	7	10	5	6	5	4,613
" " 10	11	7	9	9	12	7	10	5	6	5	4,630
" " 11	14	7	14	9	15	7	15	10	7	8	10,389
" " 12	14	5	14	5	15	9	15	7	7	6	9,969
" " 13	14	10	14	9	15	8	15	8	7	5	10,105
" " 14	14	7	14	8	15	8	15	8	7	5	9,995
" " 15	15	0	14	4	15	9	15	8	7	5	10,050
" " 16	14	0	14	5	15	9	15	8	7	5	9,750
" " 17	14	5	14	5	15	8	15	9	7	5	9,885
" " 18	14	3	14	9	15	10	15	10	8	4	10,361
											126,821

25

No. of tub.	Full capacity. Gallons.	For fermenting room 6 inches out. Gallons.	Fermenting capacity in gallons.
Tub. No. 1	4,801	336.84	4,464
" " 2	4,626	331.56	4,294½
" " 3	4,130	336.84	3,793
" " 4	4,443	342.00	4,101
" " 5	4,757	342	4,415
" " 6	4,820	339.42	4,480½
" " 7	4,919	334.26	4,585
" " 8	4,578	323.88	4,254
" " 9	4,613	331.56	4,281½
" " 10	4,630	334.26	4,296
" " 11	10,389	631.91	9,757
" " 12	9,969	610.50	9,358½
" " 13	10,105	642.66	9,462½
" " 14	9,995	628.32	9,366½
" " 15	10,050	631.91	9,418
" " 16	9,750	593.04	9,157
" " 17	9,885	610.50	9,274½
" " 18	10,316	617.64	9,743½
	Total.. 126,821	Total.. 8,319.10	Total.. 118,502

It will be seen from the preceding tables that the eighteen fermenting-tubs in this distillery have an aggregate fermenting capacity of one hundred and eighteen thousand five hundred and two gallons, and calculating that this beer stands three days, or seventy-two hours, for all

the mash made on Monday, Tuesday, and Wednesday of each week,
and four days, or ninety-six hours, for all the mash made Thurs-
26 day, Friday, and Saturday of each week, the latter having to lay
over Sunday and an additional day, or twenty-four hours, the time required by the statute that each tub shall stand after running off, and we have four days that the tubs filled the first three days of each week, and five days that the tubs which are filled the last three days of each week will be occupied with each mash, and dividing the sum of one hundred and eighteen thousand five hundred and two gallons by four, it gives twenty-nine thousand six hundred and twenty-five and a half gallons of beer, which amount divided by forty-five, the number of gallons of beer to one bushel of material, and it gives six hundred and fifty-eight and one-third bushels of material per day, and which multiplied by three and one-half, the number of gallons of spirits to the bushel of material, and it gives two thousand and four gallons of spirits as the producing capacity of this distillery for each twenty-four hours.

Very respectfully,

DUNCAN FERGUSON,
United States Assessor.
W. L. PEASE.

I hereby state that the above report is the same as the one forwarded by me to the Commissioner of Internal Revenue.

At the time of making the above survey Parker R. Mason, the distiller, gave the assessor notice that he would not use the full capacity of
his distillery at present, and we therefore, at his request, securely
27 headed over and sealed the mash-tubs, numbered from No. one
to six inclusive, which have an aggregate fermenting capacity of twenty-five thousand five hundred and forty-eight gallons, and dividing this sum by four, it gives six thousand three hundred and eighty-seven gallons of beer, which amount divided by forty-five, the number of gallons of beer to one bushel of material, and it gives one hundred and forty-two bushels of material per day, which multiplied by three and one-half, the number of gallons of spirits to the bushel of material, and it gives four hundred and ninety-seven gallons of spirits as the producing capacity of the six tubs numbered from one to six; and deducting said amount of four hundred and ninety-seven gallons from two thousand three hundred and four, the full capacity of the distillery, and it leaves one thousand eight hundred and seven gallons of spirits as the present producing capacity of this distillery.

Very respectfully,

DUNCAN FERGUSON,
United States Assessor.
W. L. PEASE.

28 On this day, to wit, the 28th day of August, A. D. 1869, in the record of the proceedings of said court in chancery, in said entitled cause is the following entry, to wit:

PARKER R. MASON
vs.
S. S. MANN, DEPUTY COLLECTOR; WILLIAM B. Allen, collector; Duncan Furguson, assessor; and Columbus Delano, Commissioner of the Internal Revenue. } Chancery.

Now comes the complainant by Edward Roby, esq., his solicitor, and

on his application for an injunction against the defendants herein, it is ordered by the court that nothing be done herein by the said defendants to prejudice the rights of the complainant until the further order of the court.

On this day, to wit, the 26th day of July, A. D. 1870, in the record of the proceedings, of said court in chancery in said entitled cause is the following entry, to wit:

29 PARKER R. MASON
vs.
S. S. MANN, WILLIAM B. ALLEN, DUNCAN Ferguson, & Columbus Delano. } Chancery.

On motion of the district attorney,

It is ordered by the court that the order granting a temporary injunction against the defendants entered herein on the twenty-eighth day of August, A. D. eighteen hundred and sixty-nine, be set aside and vacated.

And the court having considered and being now fully advised upon the application of the complainant for an injunction against the defendants, as prayed for in the bill of complaint herein, overrules said application and dismisses said bill of complaint at the costs of the complainant.

It is thereupon considered and adjudged by the court that the defendants do have and recover of the complainant their costs in this behalf expended, amounting to the sum of thirty-nine dollars and eighty five cents, and that they have execution therefor.

And thereupon the complainant, by his solicitor, prays an appeal to the Supreme Court, which is granted upon giving bond in the sum of five hundred dollars with security, to be approved by the court.

30 On this day, to wit, the 28th day of July, A. D. 1870, came said complainant by his solicitor, and filed in said court with the clerk thereof his appeal bond in said entitled cause, which said bond is in the words and figures following, to wit:

Appeal bond.

Circuit court of the United States, northern district of Illinois, ss:

PARKER R. MASON
vs.
S. S. MANN, DEPUTY COLLECTOR; WILLIAM B. Allen, collector; Duncan Ferguson, assessor; and Columbus Delano, Commissioner of Internal Revenue. } In chancery.

Know all men by these presents that we, Parker R. Mason, as principal, and John P. Furlong, as surety, all of the city of Chicago, county of Cook, and State of Illinois, and of the northern district of Illinois, are held and firmly bound unto the above-named S. S. Mann, deputy
31 collector; William B. Allen, collector; Duncan Ferguson, assessor; and Columbus Delano, Commissioner of Internal Revenue, in the sum of five hundred dollars, to be paid to the said Mann, Allen, Fer-

guson, and Delano, their executors, or administrators; to which payment well and truly to be made, we bind ourselves and each of us, jointly and severally, and our heirs and each of our heirs, executors, and administrators firmly by these presents, sealed with our seals, and dated this 28th day of July, A. D. 1870.

Whereas the above-named Parker R. Mason hath prayed for and obtained an appeal to the Supreme Court of the United States to reverse the decree entered in the above-entitled suit by the said circuit court:

Now, therefore, the condition of this obligation is such that if the above-named Parker R. Mason shall prosecute his said appeal with effect, and shall likewise pay all costs and damages which may be awarded against him, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

PARKER R. MASON. [SEAL.]
32 JOHN P. FURLONG. [SEAL.]

The foregoing bond and sureties are hereby approved.

H. W. BLODGETT, *Judge.*

(Endorsed:) Filed July 28th, 1870. W'm H. Bradley, cl'k.

33 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings of said court in chancery in said entitled cause, wherein said Parker R. Mason is complainant, and said S. S. Mann, William B. Allen, Duncan Ferguson, & Columbus Delano are defendants, as the same remains of record in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court at Chicago, in said district, this third day of December, in the year of our Lord one thousand eight hundred and seventy, and of our independence the ninety-fifth year.

[SEAL.] W'M H. BRADLEY, *Clerk.*

[Five-cent internal revenue stamp affixed and canceled.]

34 United States of America, in Supreme Court, ss., December term, A. D. 1870.

PARKER R. MASON, APPELLANT, *vs.* S. S. MANN, ET AL., APPELLEES. } Appeal from seventh circuit.

And now comes the said appellant and says, that in the foregoing record and procedings there is manifest error, in this, to wit:

The circuit court erred—

(1.) In dissolving the injunction granted therein.

(2.) In vacating the order granting a temporary injunction.

(3.) In overruling the application for an injunction, as prayed in said bill.

(4.) In dismissing said bill of complaint.

(5.) In rendering judgment against the appellant therein.

Wherefore this appellant prays that the said decree amd judgment may be reversed, and that the said appellees, the defendants named in

said record, may be enjoined and restrained, according to the prayer of said bill during the pendency of this appeal, and that this court may grant to him such other and further relief as justice shall require.

PARKER R. MASON.

EDWARD ROBY,
Counsel, 11 *Tribune Building, Chicago, Ill.*

(Indorsement on cover:) No. 274. Parker R. Mason, appellant, vs. S. S. Mann, deputy collector of internal revenue, et al. N. Illinois, C. C. U. S. Filed 31st October, 1870.

REC. 274—2